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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/584,216

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Martin Mastenbroek

2005-1038

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466 7590 01/22/2010

YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

EXAMINER

QUINN, COLLEEN M

ART UNIT

PAPER NUMBER

3634

NOTIFICATION DATE

DELIVERY MODE

01/22/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,216	<b>Applicant(s)</b> MASTENBROEK, MARTIN	
	<b>Examiner</b> COLLEEN M. QUINN	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-15 is/are rejected.
- 7) ☒ Claim(s) 6-8 and 16-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/23/06</u> . | 6) <input type="checkbox"/> Other: _____  |

***Priority***

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged *but does appear to be proper*.

The priority claim for this instant application (10584216) goes to two (2) foreign patent applications filed in The Netherlands (Netherlands apps. 1025127 and 1025821), and the PCT (PCT/NL2004/000894) that corresponds with those foreign filed patent applications. However, the US National stage application that is related to the two applications that the priority is directed to (Netherlands apps. 1025127 and 1025821) and PCT (PCT/NL2004/000894) is US application 10584215, *not* this instant application 10584216. It appears the foreign priority claim may have been a mistake due to the closely related US application numbers, since the instant application is a different invention than those inventions disclosed in the foreign applications in The Netherlands and the corresponding PCT- all of which disclose the invention of another US application (10584215).

The applicant is required to correct this misfiling of foreign priority claim to clearly disclose the correct foreign related filings, if any at all. The applicant is invited to contact the undersigned examiner with any questions regarding this issue.

### ***Election/Restrictions***

Claims 9 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 13<sup>th</sup>, 2009, in which the applicant elected **Species A, Figures 1-2A**. The applicant suggested that all claims 1-20 were readable on these figures, however claims 9 and 20 are directed to Species C, which teaches a safety device with a resilient anchoring means not taught in Species A. Claims 1-8 and 10-19 were examined.

### ***Information Disclosure Statement***

The information disclosure statement filed June 23<sup>rd</sup>, 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Objections***

Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Currently claim 2 states that the fastening net is attached to the fastening flap, when it is already disclosed in

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claim 1 that the fastening net extends from the fastening flap. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenblum (US 3,424,134). Rosenblum discloses a safety device (A; figures 1 & 2) for a fall restraint (120a, 121), comprising anchoring means (92) to which the fall restraint can be coupled directly or indirectly (figures 1 & 2), and comprising fastening means (100, 110) for a firm and durable connection to an object (figures 1 & 2), characterized in that the fastening means comprise a flexible fastening flap (100, 110) from which a fastening net (90) extends, and that the anchoring means (92) are connected via the fastening net (figures 1 & 2) to the flexible fastening flap (figures 1 & 2); wherein the fastening net (90) is integrated in the fastening flap (layered between 100 & 110; figures 1, 2 & 7); the fastening net being strengthened with longitudinal threads and transverse threads (figures 1 & 2) and is manufactured at least partially from plastic (nylon webbing; col. 5, lines 13-16), and wherein the anchoring means is a ring/loop/eyelet (92; figures 1 & 2).

***Allowable Subject Matter***

Claims 6-8 and 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The applicant is invited to call the undersigned examiner with any questions regarding this indicated allowable subject matter and potential future amendments.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COLLEEN M. QUINN whose telephone number is (571)272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE W MITCHELL/  
Supervisory Patent Examiner, Art  
Unit 3634

/Colleen M Quinn/  
Examiner, Art Unit 3634